



**Narrative in Support of Joint Application For Rezoning and Comprehensive Plan Amendment, as Necessary, to Allow Charter-School Use**

This narrative is offered in support of the rezoning and comprehensive plan amendment application ("Application") jointly submitted by Nesbitt Industrial I, LLC ("Nesbitt") and Seven Hills Preparatory Academy ("Seven Hills") (collectively the "Applicants"). Alternatively to a contemporaneously submitted request for a conditional use permit,<sup>1</sup> Applicants are requesting rezoning of real property owned by Nesbitt commonly known as 6100 West 110<sup>th</sup> Street, Bloomington, Minnesota 55438, PIN 32.116.21.44.0009 (the "Property") from its current IP district to the C-4 district (or similar district allowing a school as a conditional/permitted use). The Application is made so that the soon to be vacant building ("Building") on the Property can be converted to the new home of Seven Hills' grades 6 through 8 in time for the start of the 2015-2016 school year.

Additionally, the Property is guided "Industrial" in the 2008 Comprehensive Plan ("Comp Plan"). At the time the Comp Plan was adopted a school such as the one proposed must be considered a conditional use in the industrial district and there is no language in the Comp Plan prohibiting the use of property guided Industrial as a school. To ensure that no conflict exists, the Applicants also request an amendment to the Comp Plan to guide the Property as "quasi public" or such other designation as the City determines appropriate that will allow the Property's use as charter school.

Attached to this narrative are the following exhibits:

- Exhibit A: Site plan of the Property showing the proposed school use
- Exhibit B: Ariel map of the Property and surrounding area.

**INTRODUCTION**

Before providing greater background and support, the Applicants wish to make clear the urgency of this request. Seven Hills' current location can only accommodate grades K-5 for the coming year. Seven Hills must find new space for the more than 200 students that are currently enrolled for grades 6 through 8 for the 2015-2016 school year. It had identified the Property as a viable property for that new home based on the fact that City staff in November 2014 directed Seven Hills to look in the IP district along Old Shakopee Road. If the IP district is no longer an option, Seven Hills has effectively been zoned out of the City of Bloomington

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<sup>1</sup> The Applicants recognize that under Section 19.33.01(d)(9) of the City Ordinance the IP district permitted a private school as a conditional use and that the City sought to amend that provision to strike "private school" and replace it with "instruction facility." As discussed under Heading 3 of this application, the Applicants challenge that amendment and have contemporaneously submitted a conditional use permit on the grounds that the amendment was not effective. However, the Applicants are concerned with substance over form and make this alternative and contemporaneous application for rezoning. In submitting this application for rezoning and comp plan amendment, the Applicants do not waive its claim that the notice and publication were defective and do not relinquish any legal rights to challenge that amendment.



("City"). Given the complete lack of any other viable options within the City, Seven Hills must find a solution to move forward with what it has determined is a parcel ideally suited for its needs or it will have to look outside the City for its new location.

Timing is also critical for Nesbitt as Delphax, the single tenant in the building, is moving out. Nesbitt cannot stress enough the risk to the Property if it loses such a viable tenant. Delphax, had leased the entire space (approximately 45,000 square feet), but it actually used less than one quarter of that space. Delphax had actively marketed the Property for years trying to find a subtenant to occupy part of its space. It had no interest. Now with Delphax out, the Property will go dark and be left to search for an industrial tenant when time has shown none exist. Seven Hills is the first viable tenant(s) that has expressed interest in the Property in over a year.

### **BACKGROUND AND SUPPORT**

#### **1. Seven Hills is valuable asset for the City.**

Seven Hills is a K-8<sup>th</sup> Grade Public Charter School in its 10<sup>th</sup> year of operation. After receiving approval from the Minnesota Department of Education ("MDE") to merge its K-5 and 6-8 partner schools, Seven Hills became the first such school in the state to become a single entity on July 1<sup>st</sup>, 2014. Seven Hills is a Title I School that serves an increasingly diverse student demographic comprised of approximately 37% students of color, 26% students eligible for free or reduced lunch, and 13% students with IEPs. As a result of its commitment to academic growth, Seven Hills has been named a Minnesota Reward by MDE for its progress toward closing the achievement gaps. All of Seven Hills' 8<sup>th</sup> grade students are equipped for high school, and 70% attend high school in the City where they are often placed on an honors educational track.

Seven Hills is one of only 23 charter schools statewide to be designated a High Quality Charter School by MDE and received a three-year federal replication grant providing \$200,000 per year in funding. It has been a multiple recipient of the MDE Finance Award. Seven Hills's authorizer, Friends of Education, offered the school a 5-year contract renewal in recognition of its strong leadership, organizational stability and academic success. Seven Hills is a member of the Bloomington Chamber of Commerce and has established a continuation agreement in athletics with Kennedy High School. Seven Hills emphasizes lifelong learning and citizenship by engaging students in extracurricular activities, volunteering opportunities, and community outreach.

It is guided by its stated mission: "Engage students in a rigorous, content-rich curriculum with an emphasis on Classical, liberal arts education, designed to prepare each individual student for life-long learning and citizenship." For the "upper school" it reaches that mission through the following strategic vision:

We firmly believe in the importance of giving every child and family entering middle school the opportunity to succeed:



- 1) Encourage and begin to grow a life-long passion of knowledge, creativity and debate.
- 2) Maintain exceptionally high expectations of students, staff and community.
- 3) Promote and recognize strong character growth--leadership, volunteerism and team-building.
- 4) Instill, teach and reward the core values of respect, honesty and integrity.
- 5) Measurably grow each student's unique learning abilities in preparation for High School.

Seven Hills represents the ideal of education. It is an institution that any city should be proud to count among its residents. As history has shown, a quality school is a city-wide benefit. High quality education attracts successful families, which in turn increases home values. It can be a critical factor in attracting new business. And most importantly, it provides the next generation with the greatest chance for success. Seven Hills has demonstrated its abilities to provide that level of education across the spectrum of the City's youngest citizens and to close the achievement gap that has long hindered parts of its student base. Supporting its efforts to expand is not only good planning; it is a must of sound government.

## **2. To Continue Its Valuable Service to the Families of the City, Seven Hills Must Secure New, Additional Space**

Seven Hills projected enrollment for the 2015-16 school year is 725 students with a waitlist at every grade in which students are openly enrolled: Kindergarten: 121; 1<sup>st</sup> Grade: 38; 2<sup>nd</sup> Grade: 30; 6<sup>th</sup> Grade: 27. Presently, Seven Hills functions within approximately 13,000 square feet of dedicated classroom space, utilizes a theater space for some classes as well as temporary, limited use of a cafeteria and lounge for additional classes. In the old space, the upper and lower school also shared a single gymnasium, which means half of the year students meet for indoor physical education in an area roughly 1,400 square feet. Also, the gymnasium is unavailable for use for 2 hours every day to accommodate 3 sessions of 20-minute lunches. Lastly, Seven Hills has further maximized space efficiency by having 2 teachers office out of nearly every classroom with as many as 6 staff working in a space less than 1,000 square feet.

Seven Hills has quite simply out grown its current space. What it has decided is that it will continue to offer K-5<sup>th</sup> grade classes out of the existing site ("Site I"). Six through eighth grade must be moved out of the space beginning with the 2015-2016 school year. In future years, Seven Hills will also add "lower school" grades to its new site while continuing to offer K-5<sup>th</sup> grade at Site I. The immediate reality is that Seven Hills must move grades 6 through 8 and must do it in time for the 2015-16 school year.

Finding a site that can house 200+ middle schools by August 1 and meet the future expansion is no small task. The following is an abbreviated list of the key elements Seven Hills needs from a new site:



- Able to be "school ready" by August 1, 2015 commencement date.
- Offers at least 25,000 rentable square feet out of the gates with ability to grow to 40,000-50,000 square feet
- Contains an area suitable for use as a gym with a minimum of 20' clear ceiling height and ability to reengineer columns to allow for a middle school size basketball court.
- Area convertible to a lunch room
- Ability to have outdoor play space
- Adjacent green space
- Ability to have appropriate bus pick up and drop off
- A landlord that could work with the unique lease structure of a charter school with MDE rents, closure clause, etc.
- A landlord that would provide adequate TIs to convert/update the space; and
- Most importantly, the rent for a property that meets the above factors must not exceed the amount that the Minnesota Department of Education ("MDE") provides for rent reimbursements.

For more than a year, brokers have been actively searching the City for a new location that is capable of meeting Seven Hills' current needs. Seven Hills sought out the opinion of City staff on viable zoning districts as far back as November 2013. It was told, in writing both in November 2013 and again in June 2014, that the available zoning districts for a school were as follows:

Conditional Use Permits in R-1, R-1A, RM-24, RS-1, RM-12, IP and C-4

Provisional use in CR-1 (In a building occupied primarily by another use that utilizes the provisional use)

Permitted Use in CX-2

The CX-2 district is the Mall of America and surrounding areas. With land costs being driven by the commercial uses in that area, an elementary school cannot afford the net rent, let alone the gross rent that such properties must fetch to cover the land costs. The CR-1 faces similar price battles and Seven Hills is not an accessory/provisional use.



Residential property is no better. Finding an existing building in a residential district that has 25,000 square foot with the possibility to expand to 50,000 square feet, let alone 20-foot clear ceilings and a convertible lunch room is not a realistic possibility. If it did exist, there would again be an issue of rent, as residential land cost would push rent far above the MDE rent reimbursement number. Purchasing multiple homes to tear down and build a new building is even more dubious as the acquisition costs alone, end any consideration of this option.

That leaves C-4 or IP from the district identified by City staff. Seven Hills brokers have scoured properties in existing C-4 districts for potential spaces. There is quite simply nothing that foots the bill.

That brings us to the IP district, a district generally that can offer affordable rent and large open buildings. It is a district that has historically permitted private schools as a conditional use. It is also a district that has an ever-shrinking tenant base as American manufacturing is shrinking and large brick and mortar users are an endangered species. And while it may be that the recent amendments have sought to eliminate schools as conditional use in the IP district, it was unquestionably identified as an acceptable district mere months ago.

Seven Hills needs and wants a new home within the City. But that is no easy task. With the ever-growing student body, Seven Hill needs more space. It needs classrooms, a cafeteria, a gymnasium, and outdoor space. It needs a place where the future leaders of Bloomington can flourish so that the achievement gap of its minority students is not just reduced but eliminated. Its new home must have big block vacancies, but it must also come at price that fits within an elementary school's rent budget. A budget that is set by MDE. Ensuring that Seven Hills can find such a location within the City limits should not just a calling for our City leaders, it should be a must. The children of this City deserve nothing less.

### **3. The City Eliminates Private Schools as a permitted use in the IP District.**

Having reached a letter or intent on the Property, the Applicants were quite surprised to learn that the City had recently passed changes to one standard of an IP district such that private schools were no longer a conditional use. The Applicants are surprised because neither received notice that an IP district standard was being considered for amendment and the summary publication of the ordinance amendment states it was

an ordinance amending Chapters 10, 19, 21 and 22 to update definitions; modify standards in the R-1, R-1A, RS-1, R-4, RM-12, RM-24 and RM-50 zoning districts; create a new R-3 and RM-100 zoning district; modify accessory building standards; modify multiple-family residential standards; create cemetery, crematoria, townhouse, single-family residential and family day shelter standards; and modify neighborhood unit development standards.



What is missing from both the public notice of the hearing on the "residential" standards and the summary publication of the ordinance that the City Council passed is any reference to the IP district.<sup>2</sup>

#### **4. The Property is uniquely suited to meet Seven Hills needs.**

After unsuccessfully searching the City for more than a year, Seven Hills has found a property that is uniquely suited to the needs of a charter middle school. As shown on the attached Site Plan, the Property provides the square footage, parking, and access necessary to serve Seven Hills' current needs while accommodating its continued growth. The Building has the clear ceiling heights necessary for a gymnasium. It has space for theatre and a playground. Not only does the Property have open space, but it is also adjacent to City owned green space. It allows for separate drop locations for buses and parents. It also allows Seven Hills to be the single tenant of the Building.

One of the characteristics that cannot be overlooked is the fact that the Property sits at the end of a cul de sac. It is one of only three (one a secondary access) properties that have an access point to this segment of 110<sup>th</sup> Street and it abuts no other roadway. To the north of the Property is 6150 110<sup>th</sup> Street. That building has two tenants: Black and Veatch Corporation and Bethany Press International. Neither has significant truck traffic. Between the tenants combined, there is an average of one truck per hour from 6 am to 9 am and again from 1 pm to 4 pm. Any truck crossing the property to reach either of the tenants in the northern building will necessarily be traveling at a slow speed, as it will have just executed a 90-degree right turn into the Property from 110<sup>th</sup> Street. Further, there can be no concerns of high-speed traffic, or realistically any through traffic, because the Property sits at the end of a dead-end street. There is simply little traffic of any kind on this particular segment of 110<sup>th</sup> Street. Additionally, the only property that abuts this segment of 110<sup>th</sup> Street on the south is the City-owned green space. The practical effect is that the Property is arguably the safest property for a school in all of the industrial park.

Seven Hills is also a good fit for the Property. While the Property is currently zoned "IP," it is not truly an industrial property. The 35+ acres to the south and east of the Property is City-owned green space that sits atop City wells.<sup>3</sup> The fact that the Property abuts the water source for the City also alleviates concerns of pollution: if there were hazardous substances in the ground it would show in the City water. The Property is in many ways detached from the other parcels in the industrial park in that it sits at the end of a cul de sac. Equally important, Nesbitt needs a viable tenant. When Delphax vacates the Building at the end of its lease, the space will go "dark." The prospects for a different tenant, based on the year-plus

<sup>2</sup> The Applicants also note that had an application been submitted as little as two months earlier, that the application rightfully would be for conditional use permit.

<sup>3</sup> The Applicants note that the City-owned green space is ideally suited as a potential location for playing fields for students of Seven Hills.



long efforts of Delphax to find a sub-tenant, are bleak at best. Without a viable tenant, Nesbitt will need to defer all non-essential maintenance and will be put at significant risk of default. With Seven Hills, it has a credit-worthy, low risk, long-term tenant that will improve the Building.

### **CONCLUSION**

The Property is the one location that Seven Hills has located within the City that fits its needs. The Property represents the one, best chance for Seven Hills to meet its needed expansion within the City and City's chance to keep a highly successful school that serves a critical need for all its residents. It takes a soon to be underperforming building and puts its to peak use. In short, locating Seven Hills at the Property is a win-win-win. The Applicants, therefore, respectfully request the City grant the rezoning request and related Comp Plan amendment.

Respectfully,



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